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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
| 10/509,822 | 09/30/2004 | Hubert Elmer | 5255-32PUS | 2261 |
| 27799 7590 04/09/2007 COHEN, PONTANI, LIEBERMAN & PAVANE 551 FIFTH AVENUE SUITE 1210 NEW YORK, NY 10176 | | | EXAMINER CHAPMAN, JEANETTE E | |
| | | | ART UNIT | PAPER NUMBER |
| | | | 3635 | |
| SHORTENED STATUTORY PERIOD OF RESPONSE | | MAIL DATE | DELIVERY MODE | |
| 3 MONTHS | | 04/09/2007 | PAPER | |

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

| | | | |
|------------------------------|--|--------------------------------------|--|
| Office Action Summary | Application No. 10/509,822 | Applicant(s) ELMER, HUBERT | |
| | Examiner Chapman E. Jeanette | Art Unit 3635 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 10-14, 19,20 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT WO 94/27019 in view of DE 3425765.

Pct 27019 discloses a glass separating wall comprising :

- A pair of frameless side panels 3,5 mounted between a top structure and a base
- A frameless transom panel 8 between the side panels 2,5; the transom panel 8 being held by the side panels 3,5 and the top structure
- A rotatable door leaf 4 between the side panels and below the transom panel 8
- The door leaf 4 being rotatably supported exclusively by the transom panel, at the hinge 9, and at the base by the hinge 2
- The fittings inherently comprising complementary first and second fitting parts secured to the door leaf and then to the transom

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- The first and second fittings 2,9 cooperating to permit rotation
- The side panels 3,5 and the transom panel 8 are fastened to one another by and to the top structure and the base without the fitting which support the door leaf
- The side panels, the transom and the door leaf have a uniform grid dimension and are arranged in a common plane as shown in figure 1
- The side panels and the transom panel each have longitudinal abutting edges; the abutting edges of the transom panels being connected to the abutting edges of the side panel; see figure 1

DE '765 discloses a glass separating wall with a side panel 28, a transom 26, and a door leaf. The wall further comprises:

- The door leaf 2 being rotatably supported exclusively by the transom panel, at the hinge 22, and at the base by the hinge 6
- The fittings inherently comprising complementary first and second fitting parts secured to the door leaf and then to the transom
- The first and second fittings cooperating to permit rotation
- The side panels 28 and the transom panel 26 are fastened to one another by and to the top structure and the base without the fitting which support the door leaf

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- The first and second fitting part comprises pins 14 and 22 and the other of the fitting comprise a bearing brush which receives the pin; see figure 1

In view of the above it would have been obvious to one of ordinary skill in the art to modify pct 019 to include the pin and bearing fitting of DE -765 to keep with the minimalist structure of the wall as shown by DE

Claims 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over PCT WO 94/27019 in view of DE 3425765 and further in view of Weber

Pct 019 lacks the channels at the top structure and the base with the transom and the side parts engaging the channels. Weber discloses glazing panels engaging the top and bottom channels 150 and 152. In view of the above it would have been obvious to modify pct 019 to include the channels to provide a cohesive unit.

Claims 16-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over PCT WO 94/27019 in view of DE 3425765 and Weber and further in view of Horgan

Pct 019 lacks the permanently elastic mass frictionally engaging the transom panel to each of the side panels and frictionally engaging the transom panel and each of the side panels. Horgan jr discloses permanently elastic mass (silicon 51) frictionally engaging the transom 13 to the side panels 14/14 and weber discloses the elastic means 154,156 frictionally engaging the glazing to the channels. It would have been obvious to one of ordinary skill in the art to set the side panels and the transom in the channels using the silicone in order to provide a flexible but secure attachment to the channels.

Claims 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over PCT WO 94/27019 in view of DE 3425765 and further in view of Oscari.

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Pct 019 lacks the vertically oriented stiffening elements supported on the base and arranged against the side parts perpendicular to the side parts. Oscari discloses a frameless glazing system with leaves and fixing. Oscari also discloses the vertically oriented stiffening elements 60 supported on the base and arranged against the side parts perpendicular to the side parts. It would have been obvious to one of ordinary skill in the art to include these stiffening elements to strengthen the structural integrity of the glazing elements as shown by Oscari.

Applicant's arguments with respect to claims 10-20 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion


Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chapman E. Jeanette whose telephone number is 571-272-6841. The examiner can normally be reached on Mon.-thursday, 8:30-6:00, every fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Friedman Carl can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


JEANETTE E. CHAPMAN
PRIMARY PATENT EXAMINER
ART UNIT 3635
